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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,653	01/13/2004	Yuri Kazakevich	00167-448002	3925

7590

09/20/2005

Smith & Nephew, Inc.
Chief Patent Counsel
1450 Brooks Road
Memphis, TN 38116

EXAMINER

FLANAGAN, BEVERLY MEINDL

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,653

Applicant(s)

KAZAKEVICH, YURI

Examiner

Beverly M. Flanagan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


BEVERLY M. FLANAGAN
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/13/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed January 13, 2004 has been made of record and the references cited therein have been considered by the examiner.

Entry of Preliminary Amendment

The preliminary amendment filed January 13, 2004 has been entered and made of record. Accordingly, the status of the claims is as follows: Claims 1-23 are canceled; Claims 24-41 are newly added.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24-28, 31-37 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenzel (UK Patent Application No. GB 2339926) in view of May et al. (U.S. Patent Application Publication No. 2005/0197533).

In regard to claims 24-26, 28, 31-33, 35-37, 39 and 40, Wenzel teaches an endoscope 1 comprised of a shaft 2 through which an image guide 3 and a light guide 7 pass (see Figure 1). An illumination device situated at the proximal end of the endoscope 1 has a flat array 11 of discrete light sources 14 and is arranged to

illuminate the proximal end 9 of the light guide 7 (see Figures 1 and 4). The light sources 14 may be light emitting diodes (LEDs) (see page 5). A video camera 6 may be positioned at the proximal end of the endoscope 1 and video cameras typically contain image sensors such as CCDs for processing images captured by the endoscope (see Figure 1). Wenzel is silent as to the specifics of the video camera 6 and the light sources 14 being rotatable relative to the video camera 6. However, May et al. disclose a similar endoscope 900 comprised of a rotatable insertion tube 901 and a light port 903 that are able to rotate about a longitudinal axis independently from an eyepiece or camera mount section 904 (see Figures 9 and 10). Note also that May et al. disclose the use of a CCD camera in the endoscope (see page 3, sections 0035 and 0036). May et al. thus demonstrate that endoscopes equipped with camera sections having an image sensor (CCD) where the endoscope insertion tube and light port 903 are rotatable with respect to the camera section are well known in the art. Accordingly, it would have been obvious for one of ordinary skill in the art at the time the invention was made to make the shaft 2 and illumination device of Wenzel rotatable with respect to the camera 6, in the manner disclosed by May et al. **In regard to claims 27, 34 and 41**, the device disclosed by Wenzel in view of May et al. is inherently capable of allowing the video camera 6 and CCD contained therein to maintain a right-side up position independent of the rotation of the shaft 2 and illumination device, since the video camera 6 remains stationary.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wenzel (UK Patent Application No. GB 2339926) in view of May et al. (U.S. Patent Application Publication No. 2005/0197533), as set forth above, and further in view of Shipp (WO 95/15060).

In regard to claim 29, Wenzel et al. fail to specify red, green and blue LEDs, although they do indicate that "lamps of different coloration can be used" (page 6, lines 10-11). However, Shipp shows an analogous endoscope having red, green and blue LEDs (Figure 2). It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify the device of Wenzel et al. by using red, green and blue LEDs as taught by Shipp since Shipp suggests that such would provide light suitable for three-color cameras.

Claims 30 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenzel (UK Patent Application No. GB 2339926) in view of May et al. (U.S. Patent Application Publication No. 2005/0197533), as set forth above, and further in view of Kuriwaka (JP 10-165362).


In regard to claims 30 and 38, Wenzel et al. fail to specify a wireless transmitter and battery. However, Kurikawa shows an analogous endoscope having a transmitter 22, 28 and battery 24. It would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Wenzel et al. to have a wireless transmitter and battery since Kurikawa teaches that such would allow the endoscope to be operated freely.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Beverly M. Flanagan
Primary Examiner
Art Unit 3739
